

-----X :
BROOKLYN BOTTLING OF MILTON, :
NEW YORK, INC., :
Plaintiff, :
:
:
:
:
-against- :
:
ECUABEVERAGE, CORP. :
Defendant. :
-----X

C.A. No. 07 CIV 08483 (AKH)

AFFIDAVIT

STATE OF NEW YORK)
) ss.:
COUNTY OF THE BRONX)

Reynaldo Castillo, being duly sworn, deposes and says under the penalty of perjury.

I am the Bronx Manager for North Shore Bottling Company.

I am not a party to the above captioned action.

I am not an employee of either the plaintiff or defendant although I am employed by a beverage corporation owned by the Chief Executive Officer of Plaintiff, Eric S. Miller.

I have not been paid to make this affidavit.

I am familiar with the plaintiff's beverage TROPICAL PURO SABOR NACIONAL.

I am familiar with the name and the design of the can, the bottle, and/or the box that accompanies the case

I am also familiar with the defendant's company as a competitor of Plaintiff in the market for ~~Ecuadorian~~ Ecuadorian flavored beverages.

I have seen actual bottles, cans and packages containing beverages bottled by defendant

I am fully familiar with Plaintiff's and Defendant's beverage containers in the photos

The colors of the word TROPICAL on both plaintiff's and defendant's can or bottles of

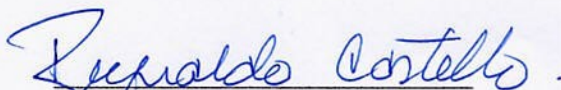
Strawberry flavor are are a very similar shade of blue. Much of the coloring is very similar

The use of the words Tropical Puro Sabor Nacional on one's version and Tropical Puro Sabor Ecuatoriana are predominant.

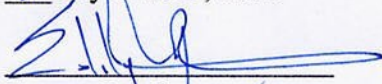
Ecuador is the nation from where the strawberry flavored drink originates..

As a borough manager for a beverage bottler and distributor, I speak often with wholesalers of beverages and consumers of beverages.

On numerous occasions consumers have told me that they believed that defendant's beverage cans or bottles were a variation, a different version, or new packaging of Plaintiff's brand of Ecuadorian beverages.


Reynaldo Castillo

Sworn to before me this
18 day of June, 2008


Notary Public

EDDY R. SALDANA

Notary Public, State of New York

No. 01SA6123798

Qualified in Queens County

Commission Expires March 14, 2009